THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2663 OF 2006

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Dated: 14-02-2006

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Between

Busetti Chandra Gopa, S/o. B. Subbanna,

R/o. D.No.7/588-1, Jaya Nagar Colony,'

Kadapa-2.

...PETITIONER

AND

The District Collector, Kadapa, Kadapa

District and another.

...RESPONDENTS

ORDER:

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This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in threatening to demolish the premises bearing D.No.4/317-3B and 4/318 situated at V.V.Nagar, R.T.C. Bus Stand Road, Kadapa, belonging to the petitioner without issuing any notice and without following due process of law as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the absolute owner and possessor of the aforementioned premises and he has constructed the structures thereon duly obtaining permission from the Kadapa municipality and has been paying taxes. The learned counsel further submits that the Kadapa Municipality has been recently upgraded as Municipal Corporation. In view of the traffic congestion and to have free flow of traffic the Kadapa Municipal Corporation has decided to widen the roads, for which they have

identified 26 roads in the entire Kadapa municipal corporation. Learned counsel for the petitioners further submits that the petitioner is not at all against the road-widening programme of the respondents and he has no objection for the said programme if his premises are acquired and if proper compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for the structures or the lands and without following due process of law, are threatening the to demolish the existing structures for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 or 147 of the Municipal Corporations Act, 1955 (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess him without following due process of law under Sections 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

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V. ESWARAIAH, J

February 14, 2006

DSK